

CERTIFICATE OF SERVICE

I, Jennifer Oltarsh, an attorney duly admitted to practice before the courts of the state of New York, hereby confirm under the penalty of perjury that I caused to be personally served a copy of the within Petition for Mandamus in the case of **Julian PENA vs. Department of Homeland Security at al.**, to each of the following persons:

U.S. Attorney's Office SDNY  
86 Chambers Street,  
New York, NY 10007

U.S. Citizenship and Immigration Services  
Attn: District Director  
26 Federal Plaza  
New York, NY 10278

and by regular mail by depositing same in a post paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

Department of Homeland Security  
200 Massachusetts NW  
Washington, DC 20529

Federal Bureau of Investigation  
26 Federal Plaza, 23rd. Floor  
New York, New York 10278-0004

ALBERTO GONZALEZ, Attorney General  
U.S. Department of Justice  
Civil Division  
Office of Immigration Litigation  
1331 Pennsylvania Avenue N.W.  
Suite 700S  
Washington, D.C. 20530

on this <sup>30th</sup> ~~29th~~ day of Aug 2007

New York, NY  
8/30/ 2007

  
\_\_\_\_\_  
Jennifer Oltarsh

JUDGE SPATZ  
07  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
Julian PENA (A97 506 747),

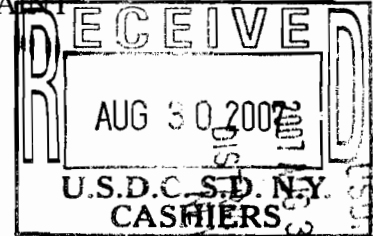
Petitioners

-against-

DEPARTMENT OF HOMELAND SECURITY,  
THE UNITED STATES CITIZENSHIP & IMMIGRANT  
SERVICES and the FEDERAL BUREAU OF  
INVESTIGATION,

Respondents .  
-----X

COMPLAINT



**PETITION FOR MANDAMUS**

To the Honorable Judges of the United States District Court, Southern District of New York: Petitioner, Julian PENA (A97 506 747), herein petitions this Court through this mandamus action to direct the Federal Bureau of Investigations (hereinafter referred to as the "FBI") and the Department of Homeland Security (hereinafter referred to as "DHS") through its branch the United States Citizenship & Immigration Service (hereinafter referred to as "USCIS") to finalize his background checks and petition for permanent residence forthwith.

This action arises from the respondents' violation of Section 6 of the Administrative Procedure Act, and 5 U.S.C. §555(b), and 28 U.S.C. §1331 and 1361.

**JURISDICTION**

1. The Administrative Procedure Act requires that administrative agencies have a duty to decide issues presented to them within a reasonable time. 5 U.S.C. §555(b).
2. 28 U.S.C. §1331 confers jurisdiction on the District Courts to review actions of federal agencies. 28 U.S.C. §1331 note 48. Reviewing courts have a duty to compel agency action unreasonably delayed. Neder v. F.C.C., 50 F.2d 182, 172 U.S. App. D.C. 1973.

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AUG 30 2007  
U.S. ATTORNEY'S SDNY